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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/525,123	02/18/2005	Ralf Neuhaus	2002P06371WOUS	2961

7590 09/20/2006

Siemens Corporation
Intellectual Property Department
170 Wood Avenue South
Iselin, NJ 08830

EXAMINER

D'AGOSTA, STEPHEN M

ART UNIT	PAPER NUMBER
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2617

DATE MAILED: 09/20/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/525,123	NEUHAUS ET AL.	
	Examiner	Art Unit	
	Stephen M. D'Agosta	2617	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 10-29 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 10-29 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 28 February 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____ | 6) <input type="checkbox"/> Other: ____ |

DETAILED ACTION

Preliminary Amendment

The examiner notes cancellation of claims 1-9 and addition of claims 10-29.

The examiner also notes the changes to the specification/abstract as well.

Specification

1. Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should **avoid** using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this **invention**," "The disclosure describes," etc.

> The word "invention" should be removed/changed

2. The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.

> The title should convey a better meaning of the essential operations being performed (eg. it appears that the claims recite limiting how many software licenses can be used at one time, per claim 19).

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 10, 18 and 26-29 rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

> The claim uses the term "and/or" which does not limit how the claim must be interpreted (eg. it cannot be one or both). The applicant is requested to change the term such that it is either "AND" or "OR".

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 10-20 rejected under 35 U.S.C. 102(b) as being anticipated by Baratti et al. GB 2,346,989.

As per **claim 10**, Baratti teaches a method for providing resources a communication network having communication components which use resources/software in the network ~~and/or~~ **AND** which provide resources in the network for use (figure 1 shows a local area network that inherently allows computers to use resources within the network, eg. client/server relationship) the method comprising:
providing the resources by a software running on the communication components, wherein the software has access to the hardware of the communication components (figure 1 shows user PC's which provide processors that can run resources, eg. software programs. Figure 1 also shows that there are License Servers

which can provide licenses to the user PC's such that they can operate various programs which require said licenses in order to execute);

checking by a service, upon use of a resource of first communication component by a second communication component, whether the second communication component can also provide the resource (figures 2-3 shows the process whereby a first component/PC checks, via the network, with a second component/PC if it can supply the software/license); and

initiating the transfer of the software from the first communication component to the second communication component and providing the resource for use if the result of the checking is positive (figures 2-3 shows that a license server will initiate transfer of the software/license to the user so that it can run the selected program).

As per **claim 11**, Baratti teaches claim 10, wherein the service is installed as software on the communication component which is to be checked (figures 2-3 shows that the software/license is downloaded to a user PC and installed/verified so that the program can execute).

As per **claims 12-13**, Baratti teaches claim 10, wherein the software for resources which are used rarely or not at all is deactivated or uninstalled and is reactivated or reinstalled when needed again (page 5, L12-15 teaches that after a user is finished with the software license, the license server "takes back" the license and increments the number of licenses available. Hence, the user can no longer activate the program unless they ask for another license. This reads on the claim since the program is essentially "deactivated" when finished with the program. The examiner also notes that it would be cumbersome to continually uninstall and then install programs across the network, hence licenses allow/prevent the use of the programs without the bulky file transfers that would be required for an across-the-LAN installation).

As per **claim 14**, Baratti teaches claim 10, wherein the step initiating the transfer of the software depends on authorization and/or a limit (abstract teaches a license server which has a limited number of licenses to give out. Also see figure 2, step #209).

As per **claim 15-17**, Baratti teaches claim 11/12/13, wherein the step initiating the transfer the software depends on authorization and/or a limit (abstract teaches a license server which has a limited number of licenses to give out. Also see figure 2, step #209).

As per **claim 18**, Baratti teaches claim 14, wherein the authorizations are provided by the user of the communication component which transfers the software ~~and/or~~ **AND** by the user of the communication component which receives the software (abstract and figures 2-3 show that both the user must request a license and the server must provide the license via a communications component/LAN. The examiner notes that LANs typically employ security measures, via Log-in and passwords, etc., to only allow authorized users to access the network).

As per **claims 19-20**, Baratti teaches claim 14/18, wherein the limiting is provided by a prescribed maximum number of software licenses on the software which is to be transferred (abstract and figures 2-3).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 21-29 rejected under 35 U.S.C. 103(a) as being unpatentable over Baratti, and further in view of Okamoto US 2002/0143801.

As per **claims 21-25**, Baratti teaches claim 10/11/12/14/18, **but is silent on** wherein the service formed by a software with a first release compares the release upon finding a second service the same type which is formed by a software with a second release and, if the releases are different, initiates transfer the software with the more up-to-date release to the communication component having the software with the earlier release and uses the transferred software update the software with the earlier release there.

Okamoto teaches a computer network whereby computers can determine if a new version of software is available and download it (see Abstract and figures 3-5 which show the process by which new software versions are detected and downloaded).

It would have been obvious to one skilled in the art at the time of the invention to modify Barattie, such that the service formed by a software with a first release compares the release upon finding a second service the same type which is formed by a software with a second release and, if the releases are different, initiates transfer the software with the more up-to-date release to the communication component having the software with the earlier release and uses the transferred software update the software with the earlier release there, to provide means for simultaneously checking and downloading software licenses and up-to-date versions of software programs.

As per **claim 26-29**, Baratti teaches claim 10/11/12/14 wherein the checking by the service is automatically performed at regular intervals of time ~~and/or~~ **OR** whenever a resource is used ~~and/or~~ **OR** after manual activation.

Okamoto teaches a computer network whereby the computers will receive updated software when they access the network (see Abstract and figures 3-5 which show the process by which new software versions are detected and downloaded. The examiner notes that one skilled would also either provide means for checking at regular intervals and/or via manual activation by a user or administrator).

It would have been obvious to one skilled in the art at the time of the invention to modify Barattie, such that the checking by the service is automatically performed at regular intervals of time ~~and/or~~ **OR** whenever a resource is used ~~and/or~~ **OR** after manual activation, to provide means for automatic or manual downloading of up-to-date software to keep the user's programs current.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

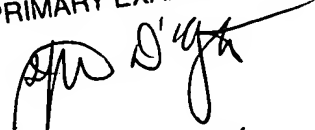
1. Yang et al. US 2002/0169625
2. Coley et al. US 2002/0161718
3. Biddle et al. US 2002/0107809
4. Redding et al. US 7,035,918
5. Conner et al. US 6,816,882

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephen M. D'Agosta whose telephone number is 571-272-7862. The examiner can normally be reached on M-F, 8am to 5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Bill Trost can be reached on 571-272-7872. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

STEVE M. D'AGOSTA
PRIMARY EXAMINER


7-31-04